



June 16, 2008

Federal Housing Finance Board
1625 Eye Street, N.W.
Washington, DC 20006
Attention: Public Comments

SUBJECT: Federal Housing Finance Board. Proposed Rule: Affordable Housing Program Amendments. RIN Number 3069-AB35. Docket Number 2008-09.

The Federal Home Loan Bank of Boston (the Bank) appreciates the opportunity to comment on the Federal Housing Finance Board's (Finance Board) proposal to amend its Affordable Housing Program (AHP) regulation. The proposal would allow the Federal Home Loan Banks (the FHLBanks) to establish AHP homeownership set-aside programs for the purpose of refinancing or restructuring eligible households' nontraditional or subprime owner-occupied mortgage loans.

The Bank supports the Finance Board's proposal to expand the AHP regulation on a limited basis to assist eligible households refinance or restructure nontraditional or subprime mortgage loans. Some of the proposed changes are easily incorporated, while others will have a more far-reaching impact on the Bank, its member financial institutions, and district housing developers. The ultimate success of the broadened regulation will rely on the FHLBanks' ability to effectively and efficiently allocate the AHP subsidy through their network of member banks to eligible households.

The significant contraction in the mortgage market and tightening of credit markets has created an environment that is making it difficult for home owners with nontraditional or subprime mortgages to secure suitable and sustainable financing. In this regard, the current foreclosure crisis calls for innovative solutions. It is well documented that one of the keys to turning around the current housing slump is to reduce delinquencies and slow the rate of foreclosures, which will help to stabilize households and keep communities intact. This proposal helps in that endeavor.

This letter summarizes the Bank's assessment of the proposed amendments and responds to several of the Finance Board's requests for comments, based on observations in our district.

Overall, the proposed amendments provide a template for establishing a basic program to assist income-eligible home owners in replacing subprime and nontraditional mortgage loans with traditional, fixed-rate mortgage loans. However, the proposed amendments present a one-size-fits-all approach to a complex, multifaceted, and multilayered problem. Therefore, first and foremost, the proposed amendments should reflect the differences that each FHLBank faces in its district with regard to the type and severity of subprime and foreclosure problems, and the proposed amendments should also give consideration to geographic, regional, and market

differences. The proposed amendments should provide enough flexibility so that each FHLBank can design a program to meet the specific needs of its district. Currently, the amendments as proposed do not.

Several of the proposed amendments significantly limit this Bank's ability to develop and administer a meaningful program that would assist our members in refinancing or restructuring nontraditional and subprime mortgage loans. Other amendments are structural and procedural and can be incorporated into whatever approach this Bank decides to implement.

The two primary proposed amendments that constrain the Bank's ability to develop an effective program that meets the needs of our members and stakeholders include:

1. The requirement that loans to be restructured or refinanced be held by members or their affiliates.

The loans that need to be refinanced or restructured in the Bank's district were primarily originated by nonmember lenders or are being held by third-party entities and investors. The Bank's members are heavily regulated financial institutions engaging in conservative, ethical, and rigorous underwriting standards that have yielded fewer subprime and nontraditional loans than many nonmember financial institutions. Therefore, this requirement limits the proposed amendments' applicability to the Bank's members or affiliates and reduces the potential effectiveness of a restructuring or refinancing program for households in the Bank's district that have subprime and nontraditional mortgage loans.

Members of the Bank should be allowed to refinance or restructure mortgage loans held by nonmember lenders, and should not be required to contribute directly or indirectly financially to such transactions. Members should not be penalized for assisting an eligible household secure a suitable and sustainable new mortgage loan, given they were not the original source of the problem loan. Members of the Bank would oppose any kind of provision that would require them to use their earnings to benefit nonmember lenders. The proposed amendments should support members in our district and provide them with enough flexibility to meet the specific needs of their clientele without penalty. *The Bank requests that the Finance Board allow its members to utilize AHP subsidies to refinance or restructure subprime or nontraditional mortgage loans held by nonmember lenders.*

2. The requirement that a member receiving AHP subsidy to refinance or restructure should pay, directly or indirectly, an amount equal to at least two times the amount of AHP subsidy toward eligible uses of the subsidy.

Members or affiliates that choose to refinance or restructure subprime or nontraditional mortgage loans should be required to contribute directly or indirectly financially to the transaction. However, the proposed amendments should grant each FHLBank discretion to determine the amount of such required contribution. This is a necessary safeguard to ensure that members who

in fact made subprime or nontraditional loans do not derive undue benefit from the use of AHP subsidy. The proposed amendments should include a balanced approach that rewards members for refinancing or restructuring nonaffiliated mortgage loans, while ensuring appropriate controls are in place for members and their affiliates refinancing or restructuring their own loans.

In addition, the Bank has the following responses to the Finance Board's requested comments:

1. If AHP subsidy could be used to assist households refinance loans held by nonaffiliated lenders, whether there should still be prohibitions on certain uses of AHP subsidy?

In principle, nonaffiliated lenders should be required to waive certain prepayment and other pay-off fees to facilitate the refinancing or restructuring of a loan to avoid a home owner's foreclosure. However, since there is no economic incentive or legal requirement to force nonaffiliated lenders to do so, any assistance is highly unexpected. If the primary goal is to assist struggling home owners preserve homeownership, then AHP subsidy should be used as a credit, including prepayment and other pay-off fees, to reduce the cost of securing a refinanced or restructured loan.

2. Whether the use of AHP subsidy for loan refinancing or restructuring should be limited to specific circumstances, such as assisting low- and moderate-income households with subprime or nontraditional mortgages that are at risk of losing their homes?

The proposed amendments should include a provision that would allow FHLBanks, on a limited basis, to develop similar programs based on significant housing needs that have an immediate impact on the regional, state, or federal economy. For example, areas hit by natural disasters or suffering from an economic downturn could be identified and quantified.

3. Whether AHP subsidy should be used to pay down principal or to provide equity, similar to down-payment assistance, in order to allow the household to qualify for a new loan from a member or another entity, especially from federal, state, and local government entities with programs specifically targeted to refinancing subprime and nontraditional mortgages such as FHA Secure and state or local bond program?

One of the hallmarks of the AHP subsidy is its flexibility and the complementary way in which it works with local, state, and federal housing programs. The current foreclosure crisis requires innovative solutions and financing from a variety of sources. Therefore, the Bank supports the AHP subsidy being used to pay down principal or provide equity in collaboration with other programs.

Throughout the Bank's district, mortgage insurers are establishing "declining value areas," which are increasing the down-payment or equity requirements for borrowers to obtain conventional financing. The net impact is that borrowers have to provide additional monies to

meet the lenders' increased loan-to-value requirements, making it more difficult for them to replace subprime and nontraditional loans with traditional loans.

Programs such as FHA Secure, HUD's 203(b) Foreclosure Prevention Program, and other programs offered by regional housing finance agencies often require additional subsidization to help home owners replace subprime or nontraditional loans with traditional loans. If the AHP subsidy can be used in connection with these programs, the leverage factor and impact that the FHLBanks and their members in assisting eligible households will increase.

4. Whether it is appropriate to permit an FHLBank to allocate to a refinancing or restructuring program a portion of its annual AHP contribution in excess of the maximum permitted for allocation to homeownership set-aside programs.

While these are unprecedented times in the mortgage and housing industry warranting attention and action, the Bank opposes any amendment that would increase the permitted allocation limit of AHP funds to homeownership set-aside programs. The AHP is successful because of its ability to meet a diverse range of housing needs, including the production of safe, quality rental housing. The reallocation of AHP subsidy from one use to another would only increase the funding gap in other housing needs. In this environment of record foreclosures, the need for affordable rental housing is more pronounced for households being displaced. The current method of each FHLBank's board of directors working in collaboration with its Affordable Housing Advisory Council, in addressing and determining housing needs within their district, has proven to be an effective process for equitably allocating the AHP subsidy.

In closing, the Bank thanks Finance Board members and staff who have worked diligently on bringing these proposed amendments to a comment period. The Bank looks forward to further discussions with the Finance Board on this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael A. Jessee", with a long horizontal flourish extending to the right.

Michael A. Jessee
President and Chief Executive Officer